

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

18-CR-6094-FPG

CARLOS JAVIER FIGUEROA
a/k/a Big Bro a/k/a Javi,

Defendant.

**STATEMENT OF THE GOVERNMENT WITH RESPECT
TO SENTENCING FACTORS**

PLEASE TAKE NOTICE, the government has fully reviewed the Pre-Sentence Investigation Report ("PSR") submitted by the United States Probation Department on or about September 1, 2021. The government adopts the findings in the PSR, with the exception of restitution.

On June 18, 2021, the defendant was convicted after trial of violations of Title 21, United States Code Sections 846, 841(a)(1), 841(b)(1)(A) (narcotics conspiracy); Title 18, United States Code Sections 924(c)(1)(A)(i), (ii), and (iii) (possession, brandishing, discharge of a firearm in furtherance of drug trafficking); and Title 21, United States Code Section 848 (murder while engaged in a narcotics conspiracy).

The PSR calculated the defendant's offense level for Counts 1 and 3 to be 43 pursuant to Guideline Sections 2A1.1(a) and 2D1.1(d)(1). With a Criminal History Category of II, his guideline range on Counts 1 and 3 is a term of imprisonment of life. Count 2 carries a mandatory minimum term of imprisonment of 10 years to be served consecutively.

Respectfully, based upon the factors discussed in the PSR and pursuant to the evidence

presented at trial, the government asks the Court to impose a term of imprisonment of life on Counts 1 and 3, and a 10-year term of imprisonment to run consecutively on Count 2. The government submits that such a sentence is appropriate and would not be "greater than necessary" to comply with the objectives set forth in Title 18, United States Code, § 3553(a).

The government also respectfully requests that, pursuant to Title 18, United States Code, Section 3663A, the Court order restitution in the amount of \$1,300.00 to cover the cost of funeral and related services incurred after the death of Walter Ross. A receipt for \$1,300.00 has been provided to the United States Probation Department and Paul J. Vacca, Jr., Esq, counsel for the defendant.

Should the defendant present any letters of support or sentencing statement to the Court, the United States will move to strike the items from the record if this office is not provided with copies at least three business days prior to sentencing.

The defendant is required by 18 U.S.C. § 3013 to pay the sum of \$300 due at the time of sentencing.

In the event present counsel for the defendant will continue to represent the defendant after sentencing in regard to the collection of unpaid financial obligation(s), it is requested that a letter so advising be sent to:

Asset Forfeiture/Financial Litigation Unit
U.S. Attorney's Office--WDNY
138 Delaware Avenue
Buffalo, New York 14202

If a letter is not received within 10 days of sentencing, the defendant will be directly contacted regarding collection of the financial obligations.

DATED: Rochester, New York, September 16, 2021

Respectfully submitted,

JAMES P. KENNEDY, JR.
United States Attorney

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TO: Paul J. Vacca, Jr., Esq.
Attorney for the Defendant

Jennifer L. Fish
U.S. Probation Officer